

**ALLEGED SHIPMENT:** On or about July 29, 1941, by the Barron-Gray Packing Co., San Jose, Calif.

**PRODUCT:** 10 cases, each containing 24 cans, and 7 cases, each containing 12 cans, of vegetable cocktail at Yakima, Wash.

**LABEL, IN PART:** "Here's Health Brand Vegetable Cocktail Blended juices of Tomatoes, Carrots, Celery, Parsley."

**VIOLATION CHARGED:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** November 19, 1943. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

#### TOMATOES AND TOMATO PRODUCTS

**5942. Adulteration of canned tomatoes. U. S. v. 402 Cases of Canned Tomatoes. Decree of condemnation. Product ordered released for sorting and repacking of fit portion, and destruction of remainder. (F. D. C. No. 11507. Sample No. 63059-F.)**

**LIBEL FILED:** December 27, 1943, Eastern District of Illinois.

**ALLEGED SHIPMENT:** On or about March 26 and September 21, 1942, by the Hougland Packing Co., of Franklin, Ind., from Terre Haute, Ind.

**PRODUCT:** 402 cases, each containing 6 No. 10 cans, of tomatoes, at Mattoon, Ill.

**LABEL, IN PART:** (Cans) "Farmers Pride Brand Tomatoes Packed for Hulman & Co. Terre Haute, Ind.—Mattoon, Ill.—Evansville, Ind."

**VIOLATION CHARGED:** Adulteration, Section 402 (a) (3), the article was unfit for food in that a portion of the cans had burst and were leaking, or were swelled preliminary to bursting, and some were rusted.

**DISPOSITION:** January 6, 1944. Hulman & Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released for sorting and repacking of the fit portion and destruction of the remainder, under the supervision of the Food and Drug Administration.

**5943. Misbranding of canned tomatoes. U. S. v. 998 Cases and 748 Cases of Tomatoes. Consent decrees of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 10848. Sample No. 41103-F, 41104-F.)**

**LIBEL FILED:** October 4, 1943, Eastern District of Louisiana.

**ALLEGED SHIPMENT:** On or about July 31, 1943, by Lee Akin & Sons, McAllen, Tex.

**PRODUCT:** 1,746 cases, each containing 24 cans, of tomatoes at New Orleans, La.

**LABEL, IN PART:** "Iona Tomatoes \* \* \* Standard Quality Grade C The Great Atlantic & Pacific Tea Co., New York, N. Y., Distributors," or "Sunny South Brand Hand Picked Tomatoes Packed By Lee Akin & Sons McAllen Mission Texas."

**VIOLATION CHARGED:** Misbranding, Section 403 (h) (1), the article was sub-standard in quality because the strength and redness of color of the tomatoes failed to meet the requirements for color prescribed in the standard; and also because tomato peel per pound of canned tomatoes exceeded the amount permitted for standard quality canned tomatoes, and its label failed to bear the required legend showing that the product fell below the standard.

**DISPOSITION:** December 1, 1943. Lee Akin & Sons, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling.

**5944. Misbranding of tomatoes. U. S. v. 299 Cases of Canned Tomatoes. Decree of condemnation. Product ordered released under bond to be brought into compliance with the law. (F. D. C. No. 10971. Sample No. 41505-F.)**

**LIBEL FILED:** On or about November 2, 1943, Western District of Louisiana.

**ALLEGED SHIPMENT:** On or about June 29, 1943, by Tyrrell & Garth, Inc., Los Fresnos, Tex.

**PRODUCT:** 299 cases of canned tomatoes at Lake Charles, La.

**LABEL, IN PART:** "Garth Brand Standard Tomatoes."

**VIOLATION CHARGED:** Misbranding, Section 403(h)(1), the product was sub-standard in quality because the strength and redness of color of the tomatoes in the containers failed to meet the requirements for color prescribed by the regulations.

**DISPOSITION:** December 15, 1943, Tyrrell & Garth, Inc., claimant. A decree of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law.

**5945. Misbranding of canned tomatoes. U. S. v. 942 Cases of Canned Tomatoes. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 11028. Sample No. 41146-F.)**

**LIBEL FILED:** October 30, 1943, District of Texas.

**ALLEGED SHIPMENT:** During July 1943, by the Logansport Canning Co., Inc., Logansport, La.

**PRODUCT:** 942 cases of canned tomatoes at the L. B. Dean Warehouse, Joaquin, Tex.

**LABEL, IN PART:** Unlabeled when shipped; label applied at warehouse, Joaquin, Tex.: "De Soto Brand Tomatoes. Packed by Logansport Canning Co., Inc."

**VIOLATIONS CHARGED:** Misbranding, Section 403(h)(1), the product was substandard because it failed to meet the requirements for color, the peel per pound of canned tomatoes in the container covered an area of more than 1 square inch, the blemishes per pound of canned tomatoes in the container covered an area of more than  $\frac{1}{4}$  square inch, and the label failed to bear a statement that the article fell below the standard; Section 403(e)(1), the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; and, Section 403(e)(2), it failed to bear an accurate statement of the quantity of the contents.

**DISPOSITION:** December 20, 1943. The claimant, J. G. Black, having admitted the material allegations of the libel, consent decree of condemnation was entered and the product was ordered released under bond for relabeling.

**5946. Misbranding of canned tomatoes. U. S. v. 447 Cases and 160 Cases of Canned Tomatoes. Decrees of condemnation. Product ordered released under bond for relabeling. (F. D. C. Nos. 10831, 11103. Sample Nos. 53409-F, 53433-F.)**

**LIBELS FILED:** September 28 and November 12, 1943, Southern District of West Virginia.

**ALLEGED SHIPMENT:** On or about August 21, 1943, by the H. J. McGrath Co., Baltimore, Md.

**PRODUCT:** 607 cases of canned tomatoes at Charleston, W. Va.

**LABEL, IN PART:** "McGrath's Tomatoes McGrath's Champion Brand."

**VIOLATION CHARGED:** Misbranding, Section 403(h)(1), the quality of the product fell below the standard for canned tomatoes prescribed by the regulations, since its drained weight was less than 50 percent of the weight of water required to fill the container, and because the peel per pound of canned tomatoes in the container covered an area of more than 1 square inch, and its label failed to bear a statement, in the manner and form that the regulations specify, that it fell below the standard.

**DISPOSITION:** The H. J. McGrath Co. appeared as claimant and admitted the allegations of the libels. On October 15 and November 29, 1943, judgment of condemnation was entered and the product was ordered released under bond for relabeling.

**5947. Misbranding of canned tomatoes. U. S. v. 556 Cases of Tomatoes. Decree of condemnation. Product ordered released under bond to be brought into compliance with the law. (F. D. C. No. 10970. Sample No. 41504-F.)**

**LIBEL FILED:** On or about October 21, 1943, Western District of Louisiana.

**ALLEGED SHIPMENT:** On or about June 6, 1943, by the Knapp-Sherrill Co. (successor to the Kessler & Bagnetto Canning Co.), Donna, Tex.

**PRODUCT:** 556 cases of tomatoes at Lake Charles, La.

**LABEL, IN PART:** "K and B Brand Tomatoes Packed By Kessler & Bagnetto Canning Co."

**VIOLATIONS CHARGED:** Misbranding, Section 403(h)(1), the product was substandard in quality because the strength and redness of the color of the tomatoes failed to meet the requirements for color prescribed in the standard.

**DISPOSITION:** December 15, 1943. Default decree of condemnation and destruction entered. On January 7, 1944, the Knapp-Sherrill Co. having entered an appearance and filed a motion to set aside the judgment, an amended decree was entered, in part setting aside the decree of December 15, 1943, and allow-